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## BY MAIL AND EMAIL

July 26, 2019

Cyrus R. Vance, Jr.  
District Attorney  
Office of the New York County District Attorney  
1 Hogan Place  
New York, NY 10013

Re: Office of the New York County District Attorney  
Evaluation of Sexual Harassment Prevention and Response Practices  
Audit Period: January 1, 2017 to December 31, 2018  
Determination: **PRELIMINARY**

Dear District Attorney Vance:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you and your agency for the cooperation extended to our staff thus far. This letter contains the EEPC's evaluation and preliminary determinations pursuant to the Office of the New York County District Attorney's Sexual Harassment Prevention and Response Practices for the period covering January 1, 2017 to December 31, 2018.

### Purpose

Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective equal employment opportunity (EEO) for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed.

The Office of the New York County District Attorney, hereinafter simply termed "agency" or "entity," falls within the EEPC's purview under Chapter 36, Sections 830(a) and 831(a) of the Charter, to review, evaluate, and monitor the coordination and implementation of affirmative employment programs of equal employment opportunity for any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

The purpose of this audit and analysis is to evaluate the subject matter referenced, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

### **Scope**

The EEPC has adopted uniform standards for auditing municipal entities<sup>1</sup> and minimum standards for auditing Community Boards (collectively “Standards”) to review, evaluate, and monitor entities’ employment and EEO-related practices, procedures, approaches, measures, standards, and programs. These standards are founded upon, and consistent with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination. Corrective actions prescribed are consistent with the aforementioned parameters including, but not limited to, the City of New York’s *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies 2014*, as amended (Citywide EEO Policy); the New York City Human Rights Law (New York City Administrative Code Title 8); New York State Human Rights Law (New York Executive Law, Article 15); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

### ***Policy and Plan Requirements***

The aforementioned Standards require, at minimum, that mayoral entities distribute the Citywide EEO Policy; non-mayoral entities establish or adopt a comprehensive EEO policy; and Community Boards, which are comprised of members appointed by the respective Borough Presidents, adopt and distribute the corresponding Borough President’s EEO Policy.

Because the EEPC is authorized to review and recommend actions that each entity should consider including in its annual plan of measures and programs to provide equal employment opportunity, or Annual EEO Plan, entities are also required to incorporate the EEPC’s corrective actions in prospective Annual EEO Plans and programs.

### **Methodology**

The EEPC communicates with EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and other employees identified as having involvement in EEO program administration such as the Principal Human Resources Professional and relevant Counsel.

The EEPC’s audit methodology includes review of the agency’s Annual EEO Plans and Quarterly EEO Reports; analysis of workforce and utilization data; and the collection and analysis of documents, records, and data an entity and its representatives provide in response to the Sexual Harassment Prevention and Response Preliminary Interview Questionnaires (PIQs). All PIQs contain requests to attach supporting documentation for the answer options selected.

EEO Professionals designated for online interviews are assigned a three-week deadline to complete and return the PIQs. The EEPC’s PIQ(s)/requests were sent to the Office of the New York County District Attorney on February 11, 2019; the completed PIQ(s) were returned on March 4, 2019. Supporting documentation was attached. Additional requests for information were made on June 19, 2019, June 21, 2019, July 1, 2019, July 10, 2019 and July 18, 2019.

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<sup>1</sup> Corresponding audit/analysis standards are numbered throughout the document.

The following determination indicates where the Office of the New York County District Attorney has or has not complied, in whole or in part, with the established Standards.

### **Description of the Agency**

District Attorneys are public law enforcement officers, under the New York State Constitution, Article 13, Section 13, elected every four years in each county. New York County Law, Article 18, Section 700 vests the District Attorney with the powers and duties to prosecute all crimes and offenses in the county in which he or she is elected and to assist district attorneys of other counties in these endeavors. District Attorneys also provide services to crime victims, witnesses, and other persons involved in the criminal justice system, support crime prevention programs, and appoint or employ persons to positions within their offices for the performance of these duties.

District Attorneys of the 5 New York City counties have the same general powers and duties as District Attorneys throughout the State, with provisions applicable to the 5 New York City counties, including but not limited to Section 931 of Article 24, New York County Law, which confers on the New York City Mayor the authority to increase or decrease the positions, salaries and compensation of positions within the Office of the District Attorney with District Attorney's consent. The work of the District Attorney's Office is handled by two principal divisions: Investigations and Trial. Additional specialized legal bureaus and units, including those dealing with special victims, work alongside these divisions to advance the Office's objectives. (Source: The Green Book, 4/2019). The CEEDS Report: *Work Force Composition Summary* for the Office of the New York County District Attorney (DANY), attached as Appendix 1, indicated that at the end of the period in review DANY's headcount was 1,487.

## **PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS**

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

### **I. Issuance, Distribution and Posting of EEO Policies**

**Determination: The agency is in partial-compliance with the standards for this subject area.**

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.

✓ In June 2017 and June 2018 the New York County District Attorney issued and distributed via email to all employees a *Policy Statement from District Attorney Cyrus R. Vance, Jr. on Sexual Harassment in the Workplace* (collectively the Sexual Harassment Policy Statement). The Sexual Harassment Policy Statement provided a definition of sexual harassment and reiterated "[t]his office has zero tolerance for this type of employment discrimination [sexual harassment]... I have directed [our] EEO Officer ... to take appropriate action to ensure that these guidelines are scrupulously followed... I want to reaffirm that this office shall continue to adhere to the letter and the spirit of all anti-discrimination laws, including these guidelines regarding discrimination in the form of sexual harassment." In addition, during the period in review the Sexual Harassment Policy Statement was posted to the agency intranet site and distributed during new hire orientations. The entity also reported that during the period in review, the Sexual Harassment Policy Statement was posted to all public bulletin boards within entity offices.

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

✓ During the period in review, the entity's *Office of the District Attorney New York County Equal Employment Opportunity and Sexual Harassment Policies and Programs* (EEO Program Manual), attached as Appendix 2, was distributed with the Sexual Harassment Policy Statement to new employees during orientation. Signed acknowledgement receipts maintained by Human Resources (HR) document these distributions. The EEO Program Manual contained: the entity's EEO Policy and a policy on the prevention of sexual harassment that conforms to city, state and federal laws against sexual harassment; procedures for the investigation of discrimination complaints; contact information (name, telephone number, office address and email address) for the entity's EEO Professionals; and contact information (name, telephone number, office address and web address) for the federal, state and local agencies that enforce laws against discrimination/sexual harassment. Employees were also reminded via emails from HR on March 24, 2017, April 10, 2018, April 25, 2018 and October 31, 2018, of the names and contact information of the entity's EEO professionals and provided with a link to the EEO Program Manual on the intranet site. Screenshots of the entity's intranet site indicated the EEO Program Manual's availability to all employees. The entity also reported that during the period in review the EEO Program Manual was posted to all public bulletin boards within entity offices.

➤ The EEO Program Manual did not include, or attach as addenda, uniform and responsive procedures for investigating discrimination/sexual harassment complaints. Specifically, the entity's complaint and investigation procedures did not include the following: that the respondent be served with a notice of the complaint that included their right to respond to the allegations and their right to be accompanied by a representative of their choice and that notice to the respondent of their rights be maintained in the complaint file; that written confirmation be issued and maintained when an internal complaint/mediation was terminated, withdrawn or resolved by agreement of the parties or EEO Office; that thorough notes, of words spoken and facts provided, be taken during each interview and included in each complaint file; that in rare circumstances where a complaint investigation could not commence immediately or where a conclusive report could not be issued within 90 days, the reason for the delay and projected time frame for completion of the report were specified in the complaint file, and the complainant and respondent be notified of the delay; that at the end of each complaint investigation, a conclusive confidential report be generated which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review; that complaint files be maintained in a secure area where they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head; that the agency head (or an approved direct report other than the General Counsel) review the principal investigator's conclusive report, issue a written/electronic determination adopting, rejecting, or modifying the recommended action, and sign each determination, via writing or electronically, to indicate it has been reviewed and adopted; that the respondent be informed of the conclusion and outcome of their complaint investigation in writing; that each internal discrimination

complaint file contain a written determination of its outcome and corrective action(s) taken as a result; and that the complainant and respondent be notified in writing when the investigation by the EEO professional was transferred because of the filing of an external complaint. **Corrective Action Required.**

**NOTE:** The web address listed for the New York State Division on Human Rights in the EEO Program Manual does not reflect the current web address for agency.

**Corrective Action #1:** Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

## **II. Training for the Agency**

**Determination:** The agency is in compliance with the standards for this subject area.

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

✓ In August 2018 and September 2018 the principal EEO Professional and the *Deputy Director of Human Resources* each informed all employees via email of the mandatory requirement to complete the Department of Citywide Administrative Services (DCAS) online training entitled *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace*. The DCAS Citywide Training Center's course catalogue indicated that topics covered by the sexual harassment prevention training included "[d]efinitions and examples of Sexual Harassment... How Sexual Harassment is a form of unlawful discrimination under federal, state and local law... the complaint procedures" and "[t]he complaint process for employees, managers, and supervisors." In addition, representative emails from 2017 and 2018, EEO training presentation slides, and training sign-in sheets from the period in review, indicated that for the duration of the period in review, the entity established and implemented a training plan of mandatory EEO training during orientation and biennial EEO refresher training. Topics in the entity's EEO training presentation slides included a listing of categories protected against discrimination, examples of behavior that may violate the EEO Policy, a definition of sexual harassment, examples of sexually harassing behavior, and the steps of the entity's discrimination complaint and investigation procedures. In addition, the entity's *Schedule of EEO Meetings, Correspondence and Announcements* for calendar years 2017, 2018 and 2019 identified that the entity regularly offered refresher and new hire orientation EEO trainings.

**NOTE:** Subsequent to the period in review, a training completion record from DCAS indicated that 1,298 of the entity's employees (approximately 87% percent of the entity's workforce, see Appendix 1) completed sexual harassment training as of February 6, 2019.

### III. Complaint and Investigation Procedures

**Summary of Complaint Activity:** The agency reported 0 internal and 0 external complaints were filed during the period in review.

**Determination:** The agency is in partial-compliance with the standards for this subject area.

4. Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.

✓ Screenshots of the entity's intranet site indicated that the *Complaint Form* for EEO complaints was available to all employees via the intranet. The *Complaint Form* captured the facts, dates, identified the respondent(s) with reasonable specificity, and provided the essence of the circumstances which gave rise to the complaint. The *Complaint Form* fields specifically captured the complainant's "[n]ame," complainant's "[s]upervisor," "[w]hat is the alleged basis of discrimination? (Please check all that apply)," "[p]lease give the name, title and division of the person(s) you believe discriminated against you," "[w]hen did the alleged discrimination occur," "[w]here did the alleged incident occur," "[w]ere there witnesses to the discrimination," "[d]id you report this incident to anyone," and "[p]lease describe what happened to you on the following pages, what you believe is unlawful discrimination, and/or how other persons were treated differently." The entity's EEO training presentation slides informed employees "[y]ou can file a complaint anonymously by calling or writing the EEO Officer or an EEO Counselor" and to "[r]efer to the DANY EEO Handbook [EEO Program Manual] and the DANY Complaint Form," to "[d]ocument the incident or behavior," to "[c]ontact a DANY EEO Coordinator," and to "[p]repare for your meeting with the EEO Coordinator[.] Review the DANY EEO Complaint Form." The *Filing of EEO Complaints* subsection of *The Internal Complaint Procedures* in the entity's EEO Program Manual elaborated on the use of the *Complaint Form* and stated "2. Complaints may be made in person or in writing to an EEO Coordinator or to the EEO Officer. 3. An EEO Coordinator will prepare, with the complainant, a written report detailing the specific allegations of the alleged discriminatory practice(s)[.]"

5. Provide the option to file a complaint anonymously.

✓ The entity's complaint and investigation procedures stated that "2. Complaints may be made ... in writing to an EEO Coordinator or to the EEO Officer" and the entity's EEO training presentation slides informed employees that "[y]ou can file a complaint anonymously by calling or writing the EEO Officer or an EEO Counselor[.]" In addition, the top of the first page of the *Complaint Form* informed all employees that "[n]ote: Complaint can be filed anonymously."

6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

**NOTE:** The entity's complaint and investigation procedures did not require that the respondent be served with a notice of the complaint that included their right to respond to the allegations and their right to be accompanied by a representative of their choice, and did not require that notice to the



respondent of their rights be maintained in the complaint file (see §1.2 for associated corrective action).

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

✓ The entity's complaint and investigation procedures stated that "[t]he complainant will be informed in writing of the disposition of the case."

**NOTE:** The entity's complaint and investigation procedures did require that written confirmation be issued and maintained when an internal complaint/mediation was terminated, withdrawn or resolved by agreement of the parties or EEO Office (see §1.2 for associated corrective action).

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

✓ The entity's complaint and investigation procedures outlined that "[a]n EEO Coordinator will prepare, with the complainant, a written report detailing the specific allegations of the alleged discriminatory practice(s)" which would presumably capture facts provided by the complainant during any applicable interview(s).

**NOTE:** The entity's complaint and investigation procedures did not require that thorough notes, of words spoken and facts provided, be taken during each interview and included in each complaint file (see §1.2 for associated corrective action).

9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

✓ The entity's complaint and investigation procedures stated "2. Complaints may be made in person or in writing to an EEO Coordinator or to the EEO Officer. 3. An EEO Coordinator will prepare, with the complainant, a written report detailing the specific allegations of the alleged discriminatory practice(s). A copy of this confidential report will be sent to the EEO Officer. 4. An initial conference will be held, within five (5) days after the preparation of the complaint report, between the complainant and the EEO Coordinator ... [The] intent [of this initial conference] is not to determine the merit of the case but merely to determine if a resolution is possible without further procedures... 5. In the event an initial attempt at a resolution fails, an inquiry shall be immediately commenced by the EEO Officer. The EEO Officer has sixty (60) business days to complete this inquiry, prepare and submit a report of the findings to the complainant, and prepare a detailed report of the findings with recommendations for correcting or remedying any substantiated acts of discrimination. This time period may be extended at the discretion of the EEO Officer, for good cause." Subsequent to the period in review the entity clarified that the initial report was prepared by the complainant alone or with the EEO Coordinator and was the initial filing of a complaint; and that the report to be prepared by the EEO Officer was the conclusive report of the complaint investigation.

**NOTE:** The entity's complaint and investigation procedures' requirement that the EEO Officer prepare a detailed report within 60 business days falls within the EEPC's standard of 90 days. However, the

entity's complaint and investigation procedures do not indicate that the EEO Coordinator's confidential report would only be drafted in lieu of a complainant's filing of the *Complaint Form* with an EEO professional. The EEPC recommends that the entity clarify in its complaint and investigation procedures the steps and timeline of the complaint investigation, from the filing of a complaint to the completion of the conclusive report of the complaint investigation. The EEPC recommends that specific deadlines (e.g. within 30 days of the filing of the complaint) be included in the complaint procedures.

**10.** In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

✓ The entity's complaint and investigation procedures established that the sixty (60) business day time period *"to complete [a complaint investigation] ... and prepare a detailed report of the findings with recommendations for correcting or remedying any substantiated acts of discrimination ... may be extended at the discretion of the EEO Officer, for good cause."*

**NOTE:** The entity's complaint and investigation procedures did not require that investigation delays be documented in the complaint file with a reason and time frame for completion of the investigation report. The complaint procedure also did not indicate that notice of investigation delays be provided to the complainant and respondent (see §I.2 for associated corrective action).

**11.** Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

✓ The entity's complaint and investigation procedures established that *"[t]he EEO Officer ... [will] prepare a detailed report of the findings [of the complaint investigation] with recommendations for correcting or remedying any substantiated acts of discrimination ... [t]he complainant will be informed in writing of the disposition of the case."*

**NOTE:** The entity's complaint and investigation procedures did not require that at the end of each complaint investigation, a conclusive confidential report be generated which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review (see §I.2 for associated corrective action).

**12.** Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

✓ The entity's complaint and investigation procedures stated that *"[e]very effort will be made in order to ensure the confidentiality of these proceedings as well as any records of the proceedings that may be produced."*



**NOTE:** The entity's complaint and investigation procedures did not require that complaint files be maintained in a secure area where they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head (see §1.2 for associated corrective action).

13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

**NOTE:** The entity's complaint and investigation procedures did not require that the agency head (or an approved direct report other than the General Counsel) review the principal investigator's conclusive report; issue a written/electronic determination adopting, rejecting, or modifying the recommended action; and sign each determination, via writing or electronically, to indicate it has been reviewed and adopted (see §1.2 for associated corrective action).

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

✓ The entity's complaint and investigation procedures established that "[t]he EEO Officer ... [will] prepare a detailed report of the findings [of the complaint investigation] with recommendations for correcting or remedying any substantiated acts of discrimination ... [t]he complainant will be informed in writing of the disposition of the case."

**NOTE:** The entity's complaint and investigation procedures did not require that the respondent be informed of the conclusion and outcome of the complaint investigation in writing (see §1.2 for associated corrective action).

15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

**NOTE:** The entity's complaint and investigation procedures did not require that each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result (see §1.2 for associated corrective action).

16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

✓ The entity's complaint and investigation procedures informed all employees that "regardless of whether you make an internal complaint, you may, at any time ... file a complaint with the [federal, state and local] agencies" that enforce laws against discrimination; a list of agencies and contact information was provided.

**NOTE:** The entity's complaint and investigation procedures did not require that the complainant and respondent be notified in writing when the investigation by the EEO professional was transferred

because of the filing of an external complaint (see §1.2 for associated corrective action).

17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

✓ The entity's *DANY Sexual Harassment Complaint Tracking Spreadsheet* permitted the capture of location (via the field "Bureau"), "Status," the length of time elapsed in the complaint investigation process (via the fields "Date filed," "Date resolved," and "Elapsed Time (in days)"), "Basis of the complaint," "Complainant Name(s)," and "Respondent Name(s)."

**NOTE:** DANY reported no internal or external employment discrimination complaints were filed during the period in review. As a result, compliance with some aspects of this standard could not be meaningfully measured for the period in review. Further evaluation of this standard was impractical.

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

✓ During the period in review, the General Counsel assisted the agency head in the identification of and response to sexual harassment, via the preparation of the entity's *NYC Agency Risk Assessment* (Risk Assessment Tool) (see §IV.19 for more information regarding the Risk Assessment Tool). The General Counsel's completion of the Risk Assessment Tool with the principal EEO Professional and the HR Professional (*Director of HR/EEO Compliance Coordinator/Career Counselor/55-a Coordinator*) also entailed an assessment of the implementation of the entity's policies and procedures pertaining to sexual harassment.

**NOTE:** DANY reported no internal or external employment discrimination complaints were filed during the period in review. As a result, compliance with some aspects of this standard could not be meaningfully measured for the period in review. Further evaluation of this standard was impractical.

#### **IV. Annual Review of Practices, Policies and Programs**

**Determination: The agency is in compliance with the standards for this subject area.**

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

✓ During the period in review, the principal EEO Professional, the HR Professional and the General Counsel collaborated as *Task Force Members* in the entity's preparation of its Risk Assessment Tool to assess workplace risk factors associated with sexual harassment. The Risk Assessment Tool included a review of the entity's EEO complaints and employment practices, policies and programs to identify whether there were barriers to employment opportunities that may be related to sexual harassment. The entity identified in its Risk Assessment Tool that: all employees were encouraged to complete a DCAS Climate Survey on EEO and sexual harassment awareness; all employees were required to complete EEO and Sexual Harassment Prevention training; 25 half-day bystander intervention training sessions were held in 2017 to train staff to understand, identify, and interrupt bias in the workplace; it would continue to focus on bystander intervention training for employees; and that leadership, managers and supervisors would be encouraged to promote bystander intervention and to assist staff in situations at risk of harmful behavior. After a review of the areas identified by Local Law 93 of 2018 to be associated with sexual harassment, the aforementioned *Task Force Members* determined no barriers to employment opportunities existed. The *Risk Assessment Certification Page* of the Risk Assessment Tool indicated the agency head's review and approval of the *Task Force Members'* assessment and determination on October 15, 2018.

#### **V. Responsibility for Implementation - EEO Professionals**

**Determination: The agency is in compliance with the standards for this subject area.**

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

✓ Prior to the period in review, the *Executive Assistant District Attorney for Strategic Initiatives* was appointed as the principal EEO Professional. All employees were reminded of the principal EEO Professional's name, phone number, office number, and email address via emails from Human Resources staff in March 2017 and October 2018, and by the agency head's June 2017 and June 2018 Sexual Harassment Policy Statements. The principal EEO Professional completed DCAS's *Everybody Matters* (April 2015), DCAS's five-day *Diversity and Equal Employment Opportunity Basic Training* (October 2016) which including training on city, state and federal EEO laws and complaint investigation procedures, DCAS's *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* (July 2018), DCAS's *Reasonable Accommodation Procedural Guidelines* (January 2019) and DCAS's *LGBTQ: The Power of Inclusion* (February 2019).

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

✓ The entity ensured the discharge of the principal EEO Professional's responsibilities having provided the principal EEO Professional with continuing education and professional development EEO training (see §V.20 for training details) and a staff of supporting EEO professionals. In March 2017 and October 2018, HR informed all employees via email of the names and EEO responsibilities of the entity's 10 supporting EEO professionals: the *Director of HR/EEO Compliance Coordinator/Career*

*Counselor/55-a Coordinator; an EEO Program Compliance/Public Safety and Health Coordinator/Reasonable Accommodation Coordinator; 5 EEO Coordinators, and 3 Reasonable Accommodation Coordinators. The Equal Employment Opportunity Policy Statement in the EEO Program Manual informed all employees that the EEO Coordinators "will assist the EEO Officer in all aspects of the EEO Program and serve as the primary recipients of any EEO complaints from employees of this office." The agency head's Sexual Harassment Policy Statements reiterated that "[a]ny employee of this office who feels that he or she is the victim of sexual harassment in the workplace is encouraged to contact [the principal EEO Professional] or any of the EEO Coordinators listed in our Equal Employment Opportunity Program Manual." HR's aforementioned emails referred employees to HR to discuss reasonable accommodation requests; identified the EEO Program Compliance/Public Safety and Health Coordinator/Reasonable Accommodation Coordinator and 3 Reasonable Accommodation Coordinators; and identified that the responsibilities of the EEO Program Compliance/Public Safety and Health Coordinator/Reasonable Accommodation Coordinator included "to analyze, evaluate and monitor the EEO programs, practices, policies and procedures of DANY for compliance with city, federal and state EEO laws and policies" and "[to] guid[e] the agency's safety and health program and policies."*

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

✓ The entity's organizational chart of the EEO Unit from the period in review indicated that the 10 supporting EEO professionals were direct reports to the principal EEO Professional for EEO matters. HR's agency-wide emails of EEO professional contact information indicated that the EEO Coordinators were each from different organizational units and in office titles at the levels of Advisor, Deputy Director, Deputy Bureau Chief, Co-Director and Director. The emails also identified that the *Director of HR/EEO Compliance Coordinator/Career Counselor/55-a Coordinator*; the *EEO Program Compliance/Public Safety and Health Coordinator/Reasonable Accommodation Coordinator* and *Reasonable Accommodation Coordinators* were from HR, and in office titles at the levels of Advisor, Coordinator, Deputy Director and Director. Certificates of completion demonstrated that 2 EEO Coordinators completed DCAS's *Basic Training for Equal Employment Opportunity Representatives* (June 2007 and May 2016), 3 EEO Coordinators completed DCAS's five-day *Diversity and Equal Employment Opportunity Basic Training* (November 2014), and the *Director of HR/EEO Compliance Coordinator/Career Counselor/55-a Coordinator* completed DCAS's five-day *Diversity and Equal Employment Opportunity Basic Training* (June 2013). DCAS training records indicated that 2 *Reasonable Accommodation Coordinators* completed *Reasonable Accommodation Procedural Guidelines* training in May 2018 and the *EEO Program Compliance/Public Safety and Health Coordinator/Reasonable Accommodation Coordinator* completed *Disability Etiquette: Inclusive Workplace Strategies for People with Disabilities* in February 2019. In addition, the entity reported that the principal EEO Professional biennially trained the *EEO Program Compliance/Public Safety and Health Coordinator/Reasonable Accommodation Coordinator* and the 3 *Reasonable Accommodation Coordinators* in EEO laws and procedures including reasonable accommodation.

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

✓ During the period in review, the principal EEO Professional and General Counsel worked cooperatively in the implementation of policies and procedures concerning sexual harassment via the preparation of the entity's risk assessment of sexual harassment (see §IV.19 for more information regarding the Risk Assessment Tool).

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

✓ The agency head's October 2014 appointment of the principal EEO Professional and the EEO Program Manual assigned the principal EEO Professional with the *"overall responsibility for the development and monitoring of the Equal Employment Opportunity Program."* The entity's organizational chart of the EEO Unit from the period in review indicated that the 10 supporting EEO professionals were direct reports to the principal EEO Professional for EEO matters. In addition, the principal EEO Professional ensured that during the period in review: the entity's policies against sexual harassment and complaint procedures were available to all employees via the EEO Program Manual's posting to the entity's intranet site and office bulletin boards; employees and managers completed sexual harassment prevention training (see §II.3 for training details); and the entity's EEO-related policies and procedures were available in large print format (via enlargement of the electronic format posted to the intranet). All employees (including managers, supervisors and HR professionals) were advised by the EEO Program Manual that the principal EEO Professional's responsibilities included *"1. Implementing and monitoring the Equal Employment Opportunity Program. 2. Communicating the details of the EEO Program both internally and externally. 3. Identifying problem areas. 4. Assisting managers and supervisors in solving EEO problems as they arise. 5. Implementing auditing and reporting systems that will both measure the effectiveness of the program and indicate any possible need for remedial action. 6. Serving as liaisons between this office, the Department of Personnel, the City Commission on Human Rights, and organizations and community action groups concerned with employment opportunities for covered groups. 7. Conducting audits of hiring and promotional patterns to assist in ensuring that the goals of the EEO Program are met. 8. Holding regular discussions with managers, supervisors, and employees to ensure that this office's EEO policies are being followed."* In addition in March 2017, HR reminded all staff via email that *"[t]he EEO Officer has overall responsibility for the development and monitoring of DANY's Equal Employment Opportunity program. The EEO Officer works with agency executive, managerial and supervisory personnel on the program and its goal of achieving and maintaining equal employment opportunity for all persons."* The EEO Program Manual also included procedures and timelines for the prompt investigation of complaints.

**NOTE:** The entity reported no internal complaints during the period in review.

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.



- ✓ The entity's organizational chart from the period in review indicated that the principal EEO Professional was a direct report to the agency head.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

- ✓ The entity provided representative examples of agendas and minutes from quarterly EEO meetings between the principal EEO Professional and agency head in 2017 and 2018. Meeting agenda and minutes from July 2017 documented that the principal EEO Professional, agency head, HR Professional, and General Counsel were all in attendance, and identified that topics discussed included updates to the agency head's EEO Policy Statement, the entity's bulletin boards and the entity's intranet site. Meeting agenda and minutes from October 2018, documented that the aforementioned participants reviewed the entity's Risk Assessment Tool, that the agency head approved the Risk Assessment Tool, and that the entity determined it will review sexual harassment risks on a quarterly basis. The 2018 agenda and minutes also documented the decision that the entity will continue EEO and sexual harassment training until fully implemented.

#### **VI. Responsibility for Implementation – Supervisors/Managers**

**Determination: The agency is in compliance with the standards for this subject area.**

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

- ✓ During the period in review, managers and supervisors were informed of and held accountable for their responsibilities for enforcing the agency's sexual harassment prevention policies and complaint procedures. The EEO Program Manual, managerial and supervisory performance evaluations that included an EEO rating, the implementation of the entity's training plan of annual sexual harassment prevention training, and agency biennial EEO training reminded all employees of the responsibilities of managers and supervisors to report EEO complaints to the EEO Office for investigation. The EEO Program Manual established that "[t]he EEO Officer and Coordinators will keep managers and supervisors informed of the latest developments in the Equal Employment areas so that [managers and supervisors] may ... [d]iscuss the EEO policies and procedures with all supervisors and staff" and "[a]ssist in the identification of problem areas" and "in the attainment of EEO Program goals." The EEO Program Manual also established that "[m]anagers and [s]upervisors are responsible for following the Equal Employment Opportunity Policy by making certain that: 1. All employees reporting to them are treated alike. 2. All employees supervised by them are advised of the opportunities and requirements for advancement. 3. All employees are assessed and evaluated by uniform criteria and advanced without discrimination. 4. Employees and applicants are provided with reasonable accommodations as needed." Representative communications, definitions for evaluation ratings, and evaluation forms from the 2017 and 2018 managerial and supervisory performance evaluation periods (see §VI.28 for more information about evaluation ratings) demonstrated that during the period in review managers and supervisors were held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures.



28. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

✓ During the period in review, the entity's managerial performance evaluation forms, *Legal Staff/Managerial Evaluation July 1, 2017 - June 30, 2018* and *Performance Review DANY Support Staff Supervisors - 2017/2018*, each contained ratings for EEO. The *Legal Staff/Managerial Evaluation July 1, 2017 - June 30, 2018* form rated employees on an *EEO Compliance* category under a section entitled *Professionalism and Judgment*, which included "1) The employee and those under his/her supervision are compliant with office standards which require completion of the New Hire Orientation series, EEO/Diversity, Conflicts of Interest, Workplace Violence Prevention Training and other mandatory trainings. 2) The employee is compliant with office fair hiring training requirements and demonstrates adherence to fair hiring procedures and office employment policies ensuring that hiring and employment decisions are based on job-related criteria and factors. 3) The employee demonstrates knowledge of reasonable accommodation obligations, policies, and procedures including appropriate engagement in the interactive process with employees with disabilities seeking reasonable accommodations." The *Performance Review DANY Support Staff Supervisors - 2017/2018* form rated employees to assess that "[t]he employee and those under his/her supervision are compliant with office standards which require completion of the New Hire Orientation series, EEO/Diversity, Conflicts of Interest, Workplace Violence Prevention Training and other mandatory trainings," "[t]he employee is compliant with office fair hiring training requirements and demonstrates adherence to fair hiring procedures and office employment policies ensuring that hiring and employment decisions are based on job-related criteria and factors," and "[t]he employee demonstrates knowledge of reasonable accommodation obligations, policies, and procedures including appropriate engagement in the interactive process with employees with disabilities seeking reasonable accommodations."

## **VII. Reporting Standard for Agency Head**

**Determination: The agency is required to comply with the standards for this subject area.**

29. Submit to the EEPD an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

✓ On April 25, 2019, Human Resources distributed a one-page annual calendar of EEO activities entitled *Schedule of EEO Meetings, Correspondence and Announcements in 2019*, to a few key staff (including the District Attorney, principal EEO Professional, Chief Assistant District Attorney, Administrative Assistant District Attorney, Special Assistant to the District Attorney, and General Counsel). On June 20, 2019, the entity submitted to the EEPD a *Schedule of EEO Meetings, Correspondence and Announcements* for 2017, 2018, and 2019. Binders containing documentation of supporting activities for these years were submitted to the EEPD on July 15, 2019.

Each of the aforementioned EEO activity binders contained components of a robust Annual EEO Plan,

including: the agency head's affirmation statements for equal employment opportunity and sexual harassment prevention; plans of EEO meetings, agendas, and activities to provide EEO; quarterly workforce demographic data analyses; EEO notifications to employees; reviews of past efforts toward recruitment and selection for discretionary and civil service titles; sources and plans for future recruitment; EEO, sexual harassment, and professional development plans, trainings, and offerings; reasonable accommodation summaries, resources, and requests; and career counseling notifications and requests.

In addition, on July 19, 2019, the entity emailed the EEPC a declaration stating, "[w]e certify that the preceding Equal Employment Opportunity (EEO) Annual Plan for calendar years: 2017, 2018 and 2019, is true to the best of our knowledge, information and belief based on the data, policy, procedures available at the New York County District Attorney office," which also indicated that it was "[r]eviewed and Approved by" the Director of HR, the principal EEO Professional, and the District Attorney, and contained these signatures as verification.

**NOTE:** To communicate prospective strategies for implementing EEO, the Office of the New York County District Attorney should convert its current annual one-page *Schedule of EEO Meetings, Correspondence and Announcements* and auxiliary documents into an Annual EEO Plan. The Annual EEO Plan would communicate in advance strategies and expectations with regard to annually recurring EEO activities such as quarterly workforce demographic data analyses; EEO-related notifications; reviews and analysis of recruitment and selection criteria and strategies for discretionary and civil service titles; EEO, sexual harassment, and professional development training; reasonable accommodations; and career counseling. The Agency Head's review and approval of each Annual EEO Plan should be made explicit.

**30.** Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

**Final Action:** Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

### **Summary of Corrective Actions:**

The Office of the New York County District Attorney has 2 required corrective action(s) at this time. This includes the aforementioned final action.

### **Conclusion**

Pursuant to Charter Chapter 36, the Office of the New York County District Attorney has the *option* to respond to this Preliminary Determination, but must respond to our Final Determination if corrective action

is required. **Any response must be signed by the agency head and submitted to the EEPC's Executive Director.**

*Optional Response to Preliminary Determination:* If submitted, the Office of the New York County District Attorney's optional response to the EEPC's Executive Director should indicate, with attached documentation, what steps have been or will be taken to correct outstanding areas of non-compliance, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the Preliminary Determination.

*(Optional Conference)* If requested, at the Optional Conference the EEPC will discuss the immediate steps that should be taken to correct outstanding areas of non-compliance and address questions regarding the Office of the New York County District Attorney's implementation of the prescribed corrective action(s).

*(No Response Option)* If the Office of the New York County District Attorney does not respond to this Preliminary Determination within 14 days, it will become the EEPC's Final Determination.

*Mandatory Response to Final Determination:* Following this Preliminary Determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective action(s) based on verified information submitted as part of the response to the Preliminary Determination; identify remaining corrective action(s) that require further monitoring to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Charter Chapter 36, upon receipt, the Office of the New York County District Attorney must submit a response, signed by the agency head, to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance-monitoring period.

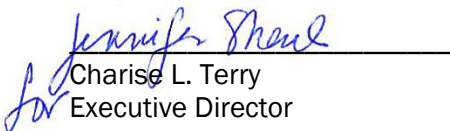
In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



William Peterson, Manager, Labor Relations Analysis and Audit

Approved by,



Charise L. Terry  
Executive Director

c: Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance  
Nitín Savur, Esq., Executive Assistant District Attorney for Strategic Initiatives, Principal EEO Professional

## **Appendix - 1**

Office of the New York County District Attorney  
CEEDS Report: *Work Force Composition Summary*  
2<sup>nd</sup> Quarter of Fiscal Year 2019  
(End of Audit Period)

PAGE: 273  
REPORT: EBEPR210

WORK FORCE COMPOSITION SUMMARY  
AGENCY 901 DISTRICT ATTORNEY-NEW YORK COUNTY

[illegible]

RUN DATE: 01/07/19  
 RUN TIME: 08:09:35.0

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
 WORK FORCE COMPOSITION SUMMARY  
 QUARTER 2 YEAR 2019 AGENCY 901 DISTRICT ATTORNEY-NEW YORK COUNTY

PAGE: 274  
 REPORT: EBEPR210

EEO JOB GROUP TOTAL.....: 1 0 4 2 0 0 0 0 0 0 0 0 0 0 7  
 14.29 0.00 57.14 28.57 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 100.00

AGENCY CODE : 901 DISTRICT ATTORNEY-NEW YORK COUNTY  
 EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
10209	COLLEGE AIDE	2	0	1	0	0	3	1	1	2	2	0	0	0	12
12749	STAFF ANALYST TRAINEE	0	0	1	0	0	0	0	0	0	0	0	0	0	1
56056	COMMUNITY ASSISTANT	2	8	10	0	0	0	1	8	4	1	0	0	0	34
56057	COMMUNITY ASSOCIATE	73	32	42	10	0	4	122	55	90	25	0	12	0	465
56058	COMMUNITY COORDINATOR	28	8	7	11	0	0	22	15	11	8	0	1	0	111
EEO JOB GROUP TOTAL.....:		105	48	61	21	0	7	146	79	107	36	0	13	0	623
		16.87	7.70	9.79	3.37	0.00	1.12	23.43	12.68	17.17	5.78	0.00	2.09	0.00	100.00

AGENCY TOTAL.....: 406 93 108 40 0 14 436 134 157 77 0 21 1 1487  
 27.31 6.25 7.26 2.69 0.00 0.94 29.32 9.01 10.56 5.18 0.00 1.41 0.07 100.00



## **Appendix - 2**

Office of the New York County District Attorney  
*Equal Employment Opportunity and Sexual Harassment Policies and  
Programs*

# Office of the District Attorney New York County

EQUAL EMPLOYMENT OPPORTUNITY AND  
SEXUAL HARASSMENT POLICIES AND PROGRAMS

REASONABLE ACCOMMODATION POLICY AND PROCEDURES

AMERICANS WITH DISABILITIES ACT  
GRIEVANCE PROCEDURES



2017

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## **EQUAL EMPLOYMENT OPPORTUNITY STATEMENT FROM DISTRICT ATTORNEY CYRUS R. VANCE, JR.**

I, Cyrus R. Vance, Jr., District Attorney for the County of New York, reaffirm that it is the stated policy of this office to comply with City, State and Federal anti-discrimination laws as they relate to employment in this office, consistent with the concept of merit in employment.

I further affirm that this policy statement and the policies and procedures contained in the DANY Equal Employment Opportunity Program Handbook reflect this office's intention to:

1. Ensure that all aspects of employment policies and practices, including but not limited to, selection criteria, recruitment, hiring, promotion, compensation, performance evaluations, transfers, disciplinary procedures, separations, agency sponsored benefits, training, and social and recreational programs, are administered without regard to race, creed, color, religion, gender, sexual orientation, age, national origin, military status, disability, predisposing genetic characteristics, marital status, partnership status, alienage or citizenship status, status as a victim of domestic violence, status as a victim of a sex offense or stalking, or the existence of children who are or may be residing with a person. The term "gender" includes actual or perceived sex and a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.
2. Ensure that all aspects of employment policies and practices, including but not limited to, selection criteria, recruitment, hiring, promotion, compensation, performance evaluations, transfers, disciplinary procedures, separations, agency sponsored benefits, training, social and recreational programs, are administered without regard to arrest record, unless the arrest record indicates prior conduct that demonstrates that the applicant would be unqualified for the position in question.
3. Ensure that this office is in compliance with the provisions of the Americans with Disabilities Act of 1990.
4. Provide equal employment opportunity, as set forth above, to those who are qualified disabled veterans and/or veterans of the Vietnam Era, pursuant to the Vietnam Era Veterans Readjustment Act of 1974.

I have appointed **Nitin Savur (One Hogan Place, Rm. 856, [savurn@dany.nyc.gov](mailto:savurn@dany.nyc.gov), 212-335-4314)**, Executive ADA for Strategic Initiatives, to be this office's EEO Officer. ADA Savur has overall responsibility for the development and monitoring of the Equal Employment Opportunity Program, and will be working with agency managerial and supervisory personnel on the program. He will be reporting to me on progress and problems in providing equal employment opportunity. I have also appointed the following **EEO Compliance Coordinator George Argyros** and **EEO Coordinators: Katie Doran, Emilio Estela, Mildred Silvie, Estelle Strykers-Santiago and David Young**. They will assist the EEO Officer in all aspects of the EEO Program and serve as the primary recipients of any EEO complaints from employees of this office.

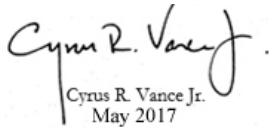
I have directed that the Equal Employment Opportunity Program Manual be regularly distributed to all office employees. The manual describes this office's EEO Internal Complaint Procedure which should be used by anyone who feels that he or she is a victim of any form of discriminatory behavior

in the workplace. Additional copies of the manual can be obtained from the EEO Officer, any EEO Coordinator, or the Human Resources Office.

I wish to emphasize that no employee may retaliate against or harass any person filing a complaint or cooperating in the investigation of a complaint. Such retaliation or harassment is unlawful and will be cause for disciplinary action.

Additionally, we are committed to recruiting a diverse and inclusive talent pool. All forms of illegal discriminatory actions against applicants for employment and City employees are prohibited.

If you have any questions relating to our EEO Program, or if you are concerned that any activity in this office relates to discrimination in the workplace, I encourage you to contact the EEO Officer or any of the EEO Coordinators. Please be assured that all inquiries will be handled discreetly and professionally. Our Equal Employment Opportunity Program and its goal of achieving and maintaining equal employment opportunity for all persons, is of the highest priority for this office and the City, and benefits from the full and positive support of the management of this office.



Cyrus R. Vance Jr.  
May 2017

## **THE RESPONSIBILITIES FOR IMPLEMENTING THE EEO PROGRAM**

### **A. The Equal Employment Opportunity Officer along with the EEO Coordinators are responsible for:**

1. Implementing and monitoring the Equal Employment Opportunity Program.
2. Communicating the details of the EEO Program both internally and externally.
3. Identifying problem areas.
4. Assisting managers and supervisors in solving EEO problems as they arise.
5. Implementing auditing and reporting systems that will both measure the effectiveness of the program and indicate any possible need for remedial action.
6. Serving as liaisons between this office, the Department of Personnel, the City Commission on Human Rights, and organizations and community action groups concerned with employment opportunities for covered groups.
7. Conducting audits of hiring and promotional patterns to assist in ensuring that the goals of the EEO Program are met.
8. Holding regular discussions with managers, supervisors, and employees to ensure that this office's EEO policies are being followed.
9. Assisting the District Attorney in assuming the EEO responsibilities that are required by the City Charter.
10. Assisting employees in requesting reasonable accommodations, and assisting managers and supervisors in providing reasonable accommodations.

### **B. The EEO Officer and Coordinators will keep managers and supervisors informed of the latest developments in the Equal Employment areas so that they may:**

1. Assist in the identification of problem areas.
2. Assist in the attainment of EEO Program goals.
3. Review their personnel practices in light of the EEO Program.
4. Discuss the EEO policies and procedures with all supervisors and staff.
5. Review opportunities for upgrading groups of employees who may be underrepresented in higher titles or positions.
6. Assist their staff in preparing for promotional opportunities.
7. Make certain that the EEO policy statement is prominently displayed in their work area.
8. Encourage their staff to attend various training and vocational programs.



9. Advise staff that harassment of any employee who becomes involved in the EEO Internal Complaint Procedures is prohibited.

**C. Managers and Supervisors are responsible for following the Equal Employment Opportunity Policy by making certain that:**

1. All employees reporting to them are treated alike.
2. All employees supervised by them are advised of the opportunities and requirements for advancement.
3. All employees are assessed and evaluated by uniform criteria and advanced without discrimination.
4. Employees and applicants are provided with reasonable accommodations as needed.

**D. The EEO Officer and the EEO Coordinators are responsible for the office's Internal Complaint Procedures. They are required to:**

1. Receive any EEO Complaint that is made by a member of this office.
2. Be familiar with anti-discrimination laws, recent court decisions, and internal procedures, so as to be able to make a clear distinction between discriminatory activities and issues such as labor relations.
3. Explain the internal complaint process to any employee having a complaint.
4. Inform any employee having a complaint of their right to file a complaint outside of the office.
5. Inform any employee having a complaint that their right to file a complaint outside of the office is not forfeited if the internal complaint is not resolved to the employee's satisfaction.
6. Report directly to the EEO Officer or to the District Attorney and to make recommendations as to the resolution of any problems that may arise.
7. Prepare confidential reports on the nature of any such complaints and have these reports forwarded to the District Attorney.

## THE INTERNAL COMPLAINT PROCEDURES

In order to ensure that every employee has the right to voice his or her concern regarding the employment practices of this office and to remedy possible discriminatory activity that has affected them directly, the office has developed these Equal Employment Opportunity Internal Complaint Procedures. Every effort will be made in order to ensure the confidentiality of these proceedings as well as any records of the proceedings that may be produced.

### A. Filing of EEO Complaints:

1. Any employee of the New York County District Attorney's Office who believes that he or she may have been discriminated against because of race, creed, color, religion, gender (including actual or perceived sex and gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to a person at birth), sexual orientation, age, national origin, military status, disability, predisposing genetic characteristics, marital status, partnership status, alienage or citizenship status, arrest record, status as a victim of domestic violence, status as a victim of a sex offense or stalking, or the existence of children who are or may be residing with a person, in regard to the terms and conditions of employment, including but not limited to selection criteria, recruitment, hiring, promotion, compensation, performance evaluations, transfers, disciplinary procedures, separations, agency sponsored benefits, training, or social and recreational programs, may file an internal complaint.
2. Complaints may be made in person or in writing to an EEO Coordinator or to the EEO Officer.
3. An EEO Coordinator will prepare, with the complainant, a written report detailing the specific allegations of the alleged discriminatory practice(s). A copy of this confidential report will be sent to the EEO Officer.
4. An initial conference will be held, within five (5) days after the preparation of the complaint report, between the complainant and the EEO Coordinator. This conference will determine if the matter can be resolved without further administrative action. Documents such as personnel files, memoranda, letters, and performance evaluation reports are not required to be provided for this initial conference since its intent is not to determine the merit of the case but merely to determine if a resolution is possible without further procedures.
5. In the event an initial attempt at a resolution fails, an inquiry shall be immediately commenced by the EEO Officer. The EEO Officer has sixty (60) business days to complete this inquiry, prepare and submit a report of the findings to the complainant, and prepare a detailed report of the findings with recommendations for correcting or remedying any substantiated acts of discrimination. This time period may be extended at the discretion of the EEO Officer, for good cause. Upon completion of the report, the EEO Officer will request a subsequent conference between the most directly concerned parties to discuss the report and to determine if a resolution is possible without further proceedings. Any member of the New York County District Attorney's Office who may have relevant information will be directed to cooperate with the inquiry.
6. If discriminatory conduct is found, action appropriate to the severity of the unlawful conduct will be taken against those found to have practiced such conduct. Such action may include,

but is not limited to: a) a warning; b) transfer to another unit; c) a formal disciplinary hearing; d) suspension; e) probation f) demotion; and g) termination.

7. If it is found that there is no reasonable cause to believe discriminatory conduct exists or has existed, the case will be dismissed and closed. The complainant will be informed in writing of the disposition of the case and advised of their right to retain an attorney privately or to file a complaint with the appropriate agencies listed below.

## **B. Prohibition on Retaliation:**

It is unlawful to retaliate against or harass any person for filing an EEO complaint or for his or her cooperation in the investigation of an EEO complaint. Any employee who engages in such retaliation or harassment shall be disciplined.

## **C. External Resources:**

You are advised that, regardless of whether you make an internal complaint, you may, at any time during or subsequent to the conclusion of these internal proceedings, retain an attorney privately or file a complaint with the agencies listed below:

### **State Agencies**

#### New York City Commission on Human Rights

40 Rector Street  
New York, NY 10006  
Telephone Number: (212) 306-7500  
[www.nyc.gov/cchr](http://www.nyc.gov/cchr)

#### New York State Division of Human Rights

One Fordham Plaza, 4th Floor  
Bronx, NY 10458  
Telephone Number: (718) 741-8400  
[www.dhr.state.ny.us](http://www.dhr.state.ny.us)

### **Federal Agencies**

#### Equal Employment Opportunity Commission

33 Whitehall Street, 5th Floor  
New York, NY 10004  
Telephone Number: (212) 336-3620  
[www.eeoc.gov](http://www.eeoc.gov)

#### Department of Justice – Civil Rights Division

950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Telephone Number: (202) 514-4609  
[www.justice.gov](http://www.justice.gov)

#### Department of Labor

200 Constitution Ave. NW  
Washington DC 20210  
Telephone Number: 1-(866)-487-9243  
[www.dol.gov](http://www.dol.gov)

## **HOW THE GOALS AND PROCEDURES OF THE EEO PROGRAM WILL BE COMMUNICATED**

In order to ensure that management, supervisors, employees and applicants for employment are informed that this office is an Equal Opportunity Employer, and that all are aware of its official policy on equal employment opportunity, the following steps will be taken:

### **A. Internal Communication:**

1. Management and supervisors will be informed that the office must comply with city, state, and federal Equal Opportunity laws.
2. Supervisors will be instructed to explain this office's Equal Employment Opportunity policy to their staff.
3. The District Attorney's Equal Employment Opportunity Policy Statement will be posted on employee bulletin boards where it is available to all personnel.
4. The District Attorney's Equal Employment Opportunity Policy Statement and the EEO Program Manual will be given to all employees.
5. At orientation sessions, all new employees will receive copies of the District Attorney's Equal Employment Opportunity Policy Statement and the EEO Program Manual.
6. The District Attorney's Equal Employment Opportunity Policy Statement and the EEO Program Manual will be available as an electronic document on the office's internal network.
7. Training on the prevention of harassment and discrimination will be mandatory for all staff.

### **B. External Communication:**

1. The EEO Officer or his designee will ensure that external recruiters will inform applicants that the New York County District Attorney's Office is an Equal Opportunity Employer.
2. When the office advertises for prospective employees, each advertisement will state that the New York County District Attorney's Office is an Equal Employment Opportunity Employer.

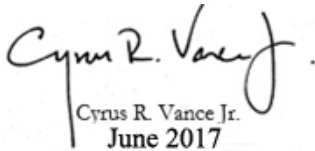
## **POLICY STATEMENT ON PREVENTING SEXUAL HARASSMENT IN THE WORK-PLACE**

It has been the long established policy of the New York County District Attorney's Office to ensure equal opportunity and prevent discrimination in all aspects of employment, and we are determined to comply with the City, State and Federal antidiscrimination laws as they relate to this office. In November 1980, the United States Equal Employment Opportunity Commission published its "Guidelines on Discrimination because of Sex under Title VII of the Civil Rights Act of 1964," in which sexual harassment is identified as an unlawful employment practice. In these guidelines, sexual harassment is defined as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

This office has zero tolerance for this type of employment discrimination, and we are determined to be in complete compliance with this section of the Civil Rights Act. I have directed Nitin Savur, Executive ADA for Strategic Initiatives and EEO Officer, to take appropriate action to ensure that these guidelines are scrupulously followed.

Any employee of this office who feels that he or she is the victim of sexual harassment in the workplace is encouraged to contact ADA Savur or any of the EEO Coordinators listed in our Equal Policy Statement on Preventing Sexual Harassment in the Workplace Employment Opportunity Program Manual. Your complaint will receive the same attention and due process given to any EEO complaint under our internal complaint procedures. No employee may retaliate against any person for filing a complaint or cooperating in the investigation of a complaint. Such retaliation is unlawful and will be cause for disciplinary action. I want to reaffirm that this office shall continue to adhere to the letter and the spirit of all anti-discrimination laws, including these guidelines regarding discrimination in the form of sexual harassment.



Cyrus R. Vance Jr.  
June 2017

## **REASONABLE ACCOMMODATION POLICY AND PROCEDURE**

The District Attorney's Office of New York County (DANY) will make reasonable accommodations to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment, unless providing such accommodation would impose an undue hardship on the office.

The reasonable accommodation policy and procedure is outlined below. The procedure should be collaborative, open, and flexible. Some requests for reasonable accommodation may be granted and implemented immediately following their receipt, without formal evaluation. At any point in the process the supervisor or person requesting the reasonable accommodation may seek guidance or assistance from the EEO Officer. Supervisors should notify the EEO Officer of the final outcome of all reasonable accommodation requests.

- **What Accommodations Are Reasonable?**
  - Reasonable accommodations may include modifications or adjustments to the application process, work environment, or the manner or circumstances under which a position is customarily performed. The reasonableness of an accommodation will depend upon the circumstances of each case. Reasonable accommodation enables a qualified applicant or employee with a disability to be considered for a position or to perform its essential functions or to enjoy benefits and privileges of employment that are equal to those enjoyed by similarly situated employees without disabilities. A qualified applicant or employee is an individual with a disability who satisfies the requisite skill, experience, education and other job related requirements of a position and who, with reasonable 'Reasonable Accommodation Policy and Procedure' accommodation (if needed), or without accommodation (if none is needed), can perform the essential functions of that position.
- **What Accommodations Are Not Reasonable?**
  - Accommodations are not reasonable if they impose an undue hardship on the employer. A reasonable accommodation does not include a personal item that is needed both on and off the job unless such item is specifically designed to meet job-related rather than personal needs.

### **Procedure for Accommodation Request**

- **Step 1: Request for Reasonable Accommodation**
  - The employee or job candidate should make an oral or written request to his or her immediate supervisor or to his or her bureau or unit chief. If requested, an EEO Coordinator will assist the individual in making a request for accommodation. Where the need for a requested accommodation is not apparent, the supervisor may ask an applicant or employee to provide documentation in support of the request.
  - Applicants for employment may address requests for reasonable accommodation for the application, interview, and testing process to the Human Resources Director.
  - At this stage the supervisor may provide or implement the request or may proceed to step 2.



- **Step 2: Review Purpose and Essential Functions of the Job**

- In situations which require a more detailed analysis, the supervisor should examine the position to determine its purpose and its essential functions. Essential functions are the fundamental job duties of a position.
- With respect to applicants for employment, DANY will make the application, interview and testing process accessible, unless doing so would create an undue hardship to the office.

- **Step 3: Consult with the Employee**

- After evaluating the position to determine its essential functions, the supervisor should consult with the employee requesting the accommodation to assess the limitations that the disability imposes on the performance of each essential function. The supervisor and employee or prospective employee (where a conditional offer of employment has been extended) should consider how any job-related limitations can be overcome, discuss possible reasonable accommodations, and assess the effectiveness of each. The employer must consider an employee's preferences, along with what is reasonable under the circumstances of the work environment, in selecting accommodations. However, the employer has the discretion to choose among various appropriate reasonable accommodations that would enable the individual to perform the essential functions of the job. The agency is not required to provide an accommodation that imposes undue hardship.
- Participants in the reasonable accommodation process may seek guidance from the Mayor's Office for People with Disabilities by calling (212) 788-2830 (voice) or (212) 788-2838 (TTY).
- If reasonable accommodation is requested for the application process itself, the Human Resources Director or his or her designee will consult with the applicant to determine how the process may reasonably be made accessible to the individual with a disability.

- **Step 4: Select and Implement an Appropriate Reasonable Accommodation**

- In all instances supervisors shall act as expeditiously as possible to provide reasonable accommodations. Where a supervisor determines to deny a request for accommodation or to provide an accommodation other than that for which the applicant or employee has expressed a preference, the supervisor shall first consult with the EEO Officer. After such consultation, the supervisor shall inform the applicant or employee of the accommodation, if any, that will be provided, or that the request has been denied.

**REASONABLE ACCOMMODATION COORDINATORS**

Regina Grey  
40 Worth, SE 935  
212-335-3677  
[greyr@dany.nyc.gov](mailto:greyr@dany.nyc.gov)

Steve Isaac  
40 Worth, SW 926  
212-335-9855  
[isaacs@dany.nyc.gov](mailto:isaacs@dany.nyc.gov)

## **Discrimination Complaints**

This reasonable accommodation procedure is intended to ensure equal employment opportunities for employees with disabilities, but shall not impede the right of any employee to file an Equal Employment Opportunity internal complaint, or a complaint with an appropriate federal oversight agency under the Americans with Disabilities Act or the Rehabilitation Act of 1973, the State Division of Human Rights, the New York City Commission on Human Rights, or any other federal, state or local agency having jurisdiction over such matters, or in any court of competent jurisdiction.

## **AMERICANS WITH DISABILITIES ACT**

The District Attorney's Office of New York County (DANY) has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act (ADA). Those regulations state, in part, that: "[n]o qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity." (28 CFR Sec. 35.130(a)).

Complaints should be addressed to: Nitin Savur, Executive ADA for Strategic Initiatives, One Hogan Place, Rm. 856, New York, NY 10013, who has been designated the ADA Coordinator for compliance efforts at DANY.

## **EXECUTIVE ORDER NO. 16 – SINGLE SEX BATHROOM POLICY**

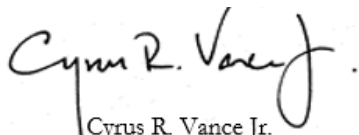
As of March 7<sup>th</sup>, 2016 all city agencies are now required to ensure that city employees and members of the public have access to single-sex facilities such as bathrooms and locker rooms in city buildings without being required to show identification, medical documentation or any proof of gender identity

## **GRIEVANCE PROCEDURE**

**The complaint process is as follows:**

1. A complaint must be filed in writing. The New York County District Attorney's Office shall provide assistance in filing the complaint for any person who needs a reasonable accommodation to enable him or her to file the complaint. A complaint shall include the name and address of the person filing it and briefly describe the alleged violation.
2. A complaint must be filed within thirty (30) days after the complainant becomes aware of the alleged violation. Processing of allegations of discrimination which occurred before this grievance procedure was in place shall be considered on a case-by-case basis.

3. In appropriate cases, the ADA Coordinator shall attempt to resolve the complaint on an informal basis, with the goal of reaching a solution that is satisfactory to both the Americans with Disabilities Act Grievance Procedure and the office.
4. Where necessary, an investigation shall be conducted by or under the supervision of the ADA Coordinator.
5. If the complaint has not been resolved informally, the ADA Coordinator shall submit a confidential written report to the District Attorney with proposed findings as to whether the agency policy or action which is the subject of the complaint is consistent with the ADA. If the ADA Coordinator believes that the agency's policy or action is not consistent with the ADA, the report shall also recommend corrective action.
6. The District Attorney shall review the ADA Coordinator's report and take any corrective action that he or she determines to be necessary and appropriate.
7. The ADA Coordinator shall advise the complaining party of any action taken with respect to the complaint.
8. The ADA Coordinator shall maintain the office files and records relating to the complaints filed.
9. The complainant's right to a prompt and equitable resolution of the complaint filed in accordance with this grievance procedure shall not be impaired by that person's pursuit of other remedies, such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies available under the ADA.

  
Cyrus R. Vance Jr.  
April 2016

## **EEO – Team Members**

Please feel free to contact the following EEO team members for related inquiries and concerns.

### **EEO Officer:**

Nitin Savur  
Executive Assistant D.A. for Strategic Initiatives  
and Deputy Chief of Trial Division  
One Hogan Place, Room 856  
212-335-4314  
[savurn@dany.nyc.gov](mailto:savurn@dany.nyc.gov)

### **EEO Compliance Coordinator / 55-A Coordinator / Career Counselor:**

George Argyros  
Director  
Human Resources  
40 Worth Street, Room SW927  
212-335-9883  
[argyrosg@dany.nyc.gov](mailto:argyrosg@dany.nyc.gov)

### **EEO Compliance and Reasonable Accommodation Coordinators:**

Katricia Cunningham  
EEO Program Compliance Coordinator  
Human Resources  
40 Worth Street, SE933  
212-335-9260  
[cunninghamk@dany.nyc.gov](mailto:cunninghamk@dany.nyc.gov)

Steve Isaac  
Deputy Director of Labor Relations  
Human Resources  
40 Worth Street, Room SW926  
212-335-9855  
[isaacs@dany.nyc.gov](mailto:isaacs@dany.nyc.gov)

### **EEO Coordinators:**

Katie Doran  
Advisor Gay/Lesbian/Transgender Issues  
80 Centre Street, Room 864  
212-335-9291  
[dorank@dany.nyc.gov](mailto:dorank@dany.nyc.gov)

Estelle Strykers-Santiago  
Director  
Community Partnerships Unit  
One Hogan Place, Room 767  
212-335-9340  
[strykerssantiagoe@dany.nyc.gov](mailto:strykerssantiagoe@dany.nyc.gov)

Mildred Silvie  
Director  
Witness Aid Services Central (WASU)  
One Hogan Place, Room 760  
212-335-9028  
[silviem@dany.nyc.gov](mailto:silviem@dany.nyc.gov)

David Young  
Deputy Director  
Case Management Services  
One Hogan Place, Room 785-WS-33  
212-335-9460  
[youngd@dany.nyc.gov](mailto:youngd@dany.nyc.gov)

Emilio Estela  
Deputy Bureau Chief  
Trial Bureau 70  
One Hogan Place, Room 680  
212-335-4052  
[estelae@dany.nyc.gov](mailto:estelae@dany.nyc.gov)

**DISTRICT ATTORNEY  
COUNTY OF NEW YORK  
ONE HOGAN PLACE  
New York, N. Y. 10013  
(212) 335-9000**



**CYRUS R. VANCE, JR.**  
DISTRICT ATTORNEY

August 7, 2019

Charise L. Terry  
Executive Director  
Equal Employment Practices Commission  
253 Broadway Suite 602  
New York, NY 10007

Dear Director Terry:

Enclosed you will find the New York County District Attorney Office's response to the Equal Employment Practices Commission's (EEPC) Preliminary Determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Nitin Savur", with a long, sweeping horizontal line extending to the right.

Nitin Savur  
Executive Assistant District Attorney for Strategic Initiatives  
Principal EEO Professional

**Corrective Action #1**  
**Equal Employment Opportunity Policy, Standards and Procedures**

Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

**Corrective Action Taken:**

The New York County District Attorney's office continues to distribute the EEO policy and program and its goal of achieving and maintaining equal employment opportunity for all persons.

The following is a summary of recent efforts:

- On August 1, 2019, EEO Officer, EEO Program Coordinators met to discuss the update to the Office of the District Attorney New York EEO and Sexual Harassment policies and programs, referenced as the EEO Program Manual in the Preliminary Determination;
- o The EEO and Sexual Harassment policies and programs include:
  - added definitions of protected categories under the EEO policy (page 8-9)
  - added a visual chart of the New York County District Attorney's Office internal complaint process (page 10)
  - updated internal complaint procedures (pages 11-19)
  - updated external resources including web addresses (page 19-21)
  - updated the internal communications to mention the agency's intranet site: DANYNET (page 23)
  - added an appendix that contains the District Attorney's Office of New York (DANY) Complaint of Discrimination form (page 31-34)

The District Attorney will continue to affirm and distribute a paper and electronic copy of the Equal Employment Opportunity Policy, Programs and Programs.



Sasha Neha Ahuja  
Chair

Angela Cabrera  
Malini Cadambi Daniel  
Elaine S. Reiss, Esq.  
Arva R. Rice  
Commissioners

Charise L. Terry  
Executive Director

Judith Garcia Quiñonez, Esq.  
Executive Agency Counsel/  
Director of Learning and  
Development

Jennifer Shaw, Esq.  
Executive Agency Counsel/  
Director of Compliance

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 676.2724 fax

**BY MAIL AND EMAIL**

August 8, 2019

Cyrus R. Vance, Jr.  
District Attorney  
Office of the New York County District Attorney  
1 Hogan Place  
New York, NY 10013

Re: Resolution #2019AP/233-901-(2019)  
Office of the New York County District Attorney  
Evaluation of Sexual Harassment Prevention and Response Practices  
Audit Period: January 1, 2017 to December 31, 2018  
Determination: **FINAL**

Dear District Attorney Vance:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you for the continued cooperation extended to our staff. This document serves as a follow-up evaluation and Final Determination to the following:

Preliminary Determination Issued on: July 26, 2019  
Response Received: August 7, 2019

**Purpose**

Chapter 35, Sections 815(a)(15) and (19) of the New York City Charter (Charter) calls for agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women.

Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective EEO for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and

monitor the implementation of the corrective action prescribed. The attachment contains the EEPC's final determination regarding the audit, review, and evaluation of the Office of the New York County District Attorney's Sexual Harassment Prevention and Response Practices.

As the Office of the New York County District Attorney falls within the EEPC's purview under Charter Chapter 36, Section 831(a), the EEPC is authorized to review, evaluate, and monitor the coordination and implementation of its affirmative employment programs of EEO and related practices. As indicated in our Preliminary Determination, the EEPC has adopted uniform standards<sup>1</sup> to this end. The purpose of this Final Determination, as authorized by Charter Chapter 36, Section 832(c), is to determine the sufficiency of the Office of the New York County District Attorney's actions taken or planned thus far to correct areas of non-compliance identified in the EEPC's Preliminary Determination. Further, Chapter 36, Section 832(c) requires that: (1) the EEPC assign a compliance-monitoring period of up to six (6) months to monitor efforts taken to eliminate areas of non-compliance, if any; and (2) the agency respond in thirty (30) days and submit a report each month during this period on the progress of efforts taken to correct outstanding areas of non-compliance.

#### **Next Steps**

**The assigned compliance-monitoring period is: September 1, 2019 to February 29, 2020. Correcting all outstanding areas of non-compliance without delay is highly encouraged and will serve to shorten this period.**

***If corrective actions remain:*** Corrective actions will be listed under the *Monitoring Required* section of the attached Final Determination. The EEPC requires that the agency head submit a signed response to this Final Determination. The signed response should indicate what steps the Office of the New York County District Attorney has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Office of the New York County District Attorney will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Office of the New York County District Attorney is required to submit documentation that supports the implementation of each corrective action via TeamCentral, the EEPC's Automated Compliance-Monitoring System. Instruction on how to access and navigate TeamCentral is attached.

***Final Memorandum:*** Upon the Office of the New York County District Attorney's implementation of the final corrective action, if any, the EEPC requires that the Office of the New York County District Attorney submit a final memorandum, signed by the agency head, that recognizes the EEPC's audit and reiterates commitment to equal employment practices. **Upon receipt of this final memorandum, the EEPC will issue a *Determination of Compliance*.**

***If no corrective actions remain:*** In lieu of a response to this Final Determination, the Office of the New York County District Attorney must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Office of the New York County District Attorney will be exempt from the abovementioned compliance-monitoring period.

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<sup>1</sup> The EEPC's uniform standards for auditing municipal entities and minimum standards for auditing community boards (collectively "Standards") are founded upon, and consistent with, federal, state, and local laws and regulations, and policies and procedures, including, but not limited to, the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to be Utilized by City Agencies 2014*; New York City Human Rights Law (NYC Administrative Code § 8); New York State Human Rights Law (New York Executive Law, Article 15); New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

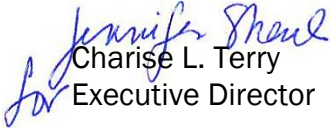


**Conclusion**

This is the EEPC's Final Determination. Questions regarding next steps may be addressed to Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at [jshaw@eepc.nyc.gov](mailto:jshaw@eepc.nyc.gov) or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,

  
Charise L. Terry  
Executive Director

c: Nitin Savur, Esq., Executive Assistant District Attorney for Strategic Initiatives, Principal  
EEO Professional

Enclosed: TeamCentral Agency Manual

### FINAL DETERMINATION

A response indicating progress of Office of the New York County District Attorney's efforts to correct outstanding areas of non-compliance, with supporting documentation, is due within 30 days.

The Equal Employment Practices Commission's findings and corrective actions required to remedy areas of non-compliance are based on the audit methodology, which included collection and analysis of the documents, records, and data provided; the EEPC's *Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*; the *EEPC Supervisor/Manager Survey*; the *Annual EEO Plans and Quarterly EEO Reports* of the audited entity; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the optional response<sup>2</sup> (if applicable) to the EEPC's Preliminary Determination, our Final Determination is as follows:

### Monitoring Required

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance-monitoring period.

#### Corrective Action#1:

Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

#### Agency Response:

*"The New York County District Attorney's office continues to distribute the EEO policy and program and its goal of achieving and maintaining equal employment opportunity for all persons. On August 1, 2019, [the] EEO Officer [and] EEO Program Coordinators met to discuss the update to the Office of the District Attorney New York EEO and Sexual Harassment policies and programs, referenced as the EEO Program Manual in the Preliminary Determination[.]"* The entity provided its revised complaint and investigation procedures for discrimination/sexual harassment complaints, which addressed the specific areas identified in corrective action #1. Additionally, the entity *"added definitions of protected categories under the EEO policy . . . added a visual chart of the New York County District Attorney's Office internal complaint process . . . updated internal complaint procedures . . . updated external resources including web addresses . . . updated the internal communications to mention the agency's intranet site: DANYNET . . . [and] added an appendix that contains the District Attorney's Office of New York (DANY) Complaint of*

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<sup>2</sup> Excerpts are italicized.



*Discrimination form.” “The District Attorney will continue to affirm and distribute a paper and electronic copy of the Equal Employment Opportunity Policy, Programs and Programs (sic).”*

EEPC Response:

The EEPC recognizes the entity's efforts to implement Corrective Action #1. To demonstrate compliance, the entity must provide documentation that its EEO Policy and revised complaint investigation procedures were physically or electronically distributed to all employees, including legal, HR, and EEO professionals, and that all employees were notified that the EEO Policy and revised complaint investigation procedures were available on the agency's website, intranet, and/or physical location(s) at the entity's workplace.

Final Action:

Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

The EEPC thanks you and your staff for your continued cooperation.



**RESOLUTION NO.  
2019AP/233-901-(2019)  
Office of the New York County District Attorney  
District Attorney Cyrus R. Vance, Jr.  
Sexual Harassment Prevention and Response Practices  
DETERMINATION: FINAL**

**SYNOPSIS**

<b>Corrective Action(s):</b>	<b>Total: 1</b>		
<b>Period Audit Covered:</b>	January 1, 2017 to December 31, 2018		
<b>Preliminary Determination Issued:</b>	July 26, 2019	<b>Response Received</b>	August 7, 2019
<b>Final Determination Issued:</b>	August 8, 2019	<b>Response Due</b>	September 9, 2019
<b>Compliance-Monitoring :</b>	Required		September 1, 2019 to February 29, 2020

**Whereas**, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

**Whereas**, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, the EEPC conducted an audit, review, and evaluation of the Office of the New York County District Attorney's Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of the New York County District Attorney's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated July 26, 2019, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy,

Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

**Whereas**, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on August 8, 2019, which indicated that the following areas required corrective action: no(s). 1; and

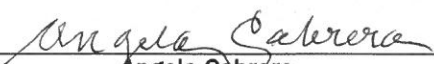
**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from September 1, 2019 to February 29, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and


**Whereas**, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and


**Whereas**, in accordance with Charter Chapter 36, Section 832(c), on August 8, 2019, the entity was required to issue a response to the EEPC's Final Determination; Now Therefore,


**Be It Resolved**, that pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the EEPC approves the issuance of this Final Determination to District Attorney Cyrus R. Vance, Jr. to assign compliance-monitoring.

Approved unanimously on September 12, 2019.

  
\_\_\_\_\_  
Angela Cabrera  
Commissioner

  
\_\_\_\_\_  
Arva R. Rice  
Commissioner

  
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Malini Cadambi Daniel  
Commissioner

  
\_\_\_\_\_  
Elaine S. Reiss, Esq.  
Commissioner

  
\_\_\_\_\_  
Sasha Neha Ahuja  
Chair



**DISTRICT ATTORNEY  
COUNTY OF NEW YORK  
ONE HOGAN PLACE  
New York, N. Y. 10013  
(212) 335-9000**



**CYRUS R. VANCE, JR.**  
DISTRICT ATTORNEY

**BY MAIL AND EMAIL**

August 7, 2019

Charise L. Terry  
Executive Director  
Equal Employment Practices Commission  
253 Broadway Suite 602  
New York, NY 10007

Dear Director Terry:

On behalf of the District Attorney's Office of New York County (DANY), we are in receipt of your August 8, 2019 letter and we acknowledge your final determination. In response to EEPC's recommendation, we have prepared and submitted a response to Corrective Action 1 through Team Central, the EEPC's Automated Compliance-Monitoring System. We are also aware and looking forward to actively working with you during the remainder of the monitoring period.

Our Equal Employment Opportunity Program and its goal of achieving and maintain equal employment opportunity for all persons is of the highest priority for this office.

If there are any further questions regarding our response to your Final Determination, please contact our Principal EEO Professional, Nitin Savur, EEO Officer and Executive ADA of Strategic Initiatives at 212-335-4314.

Thank you for your continued cooperation and support through this process.

Sincerely,

A handwritten signature in blue ink, reading "Cyrus Vance", is written over a light blue rectangular background.

Cyrus R. Vance, Jr.

cc: Nitin Savur, Principal EEO Professional

**From:** [Vance Jr., Cyrus R.](#)  
**To:** [DANY](#)  
**Subject:** EEO Program  
**Date:** Friday, August 23, 2019 11:41:28 AM

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The Equal Employment Practices Commission (EEPC) is the City agency tasked with evaluating and auditing the equal employment programs, practices, policies, and procedures of all city agencies. Recently, the EEPC conducted a routine audit of this office to evaluate our EEO program.

In light of the EEPC's findings, I am pleased to report that the office's administration of its EEO policies is in full compliance with the relevant legal and administrative standards. We strive to be a leader in this area, and we welcome the recommendations the EEPC has made to strengthen our program. Under the leadership of the office's EEO Officer, Nitin Savur, 212-335-4314, [savurn@dany.nyc.gov](mailto:savurn@dany.nyc.gov), One Hogan Place, Rm. 856, we have worked to ensure full and speedy implementation of the EEPC's recommendations.

- On August 1, 2019, the EEO Officer and EEO Program Coordinators updated the DANY EEO Policy Programs and Procedures manual (the link to the manual can be found [here](#) ).
- The DANY EEO Policy Programs and Procedures manual now includes :
  - a page of definitions of protected categories under the EEO policy
  - a visual chart and summary of the New York County District Attorney's Office internal complaint process
  - updated external resources for filing a complaint
  - references to the agency's intranet site: DANYNET
  - an appendix that contains DANY's Complaint of Discrimination form
- Our office maintains an annual plan of measures and programs which includes EEO policies, procedures, trainings and quarterly workforce analyses to provide equal employment opportunity, and efforts to implement the plan.

The office will continue to maintain its firm commitment to implementing a model EEO program, which affords its employees, applicants and all who encounter this office with fair treatment under the law.

**RESOLUTION NO.**  
**2019AP/233-901-(2019)C31**  
**Office of the New York County District Attorney**  
**District Attorney Cyrus R. Vance, Jr.**  
**Sexual Harassment Prevention and Response Practices**  
**DETERMINATION: COMPLIANCE**

**SYNOPSIS**

<b>Corrective Action(s)</b>	Total: 1		
<b>Period Audit Covered</b>	January 1, 2017 to December 31, 2018		
<b>Preliminary Determination Issued</b>	July 26, 2019	Response Received	August 7, 2019
<b>Final Determination Issued</b>	August 8, 2019	Response Received	August 19, 2019
<b>Compliance-Monitoring</b>	Required	September 1, 2019 to February 29, 2020 without extension	

**Whereas**, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

**Whereas**, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, the EEPC conducted an audit, review, and evaluation of the Office of the New York County District Attorney's Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of the New York County District Attorney's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated July 26, 2019, setting forth findings and the following corrective actions required to remedy areas of non-compliance:



1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

**Whereas**, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on August 8, 2019, which indicated that the following areas required corrective action: no(s). 1; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from September 1, 2019 to February 29, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), on August 19, 2019, the entity issued a response to the EEPC's Final Determination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the Office of the New York County District Attorney was monitored until August 20, 2019; and

**Whereas**, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the District Attorney submitted a copy of a memorandum to staff dated August 23, 2019, which recognized the EEPC's audit and reiterated commitment to the Office of the New York County District Attorney's equal employment practices; Now Therefore,

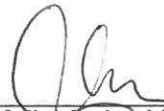
**Be It Resolved**, that the Office of the New York County District Attorney has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

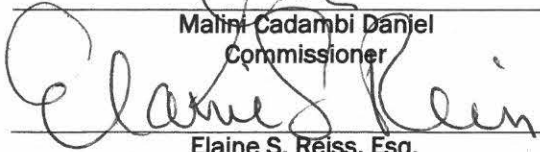
**Be It Resolved**, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to District Attorney Cyrus R. Vance, Jr. of the Office of the New York County District Attorney.

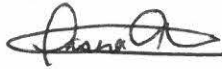
Approved unanimously on September 12, 2019.

  
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Angela Cabrera  
Commissioner

  
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Arva R. Rice  
Commissioner

  
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Malini Cadambi Daniel  
Commissioner

  
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Elaine S. Reiss, Esq.  
Commissioner

  
\_\_\_\_\_  
Sasha Neha Ahuja  
Chair



Sasha Neha Ahuja  
Chair

Angela Cabrera  
Malini Cadambi Daniel  
Elaine S. Reiss, Esq.  
Arva R. Rice  
Commissioners

Charise L. Terry, PHR  
Executive Director

Judith Garcia Quiñonez, Esq.  
Executive Agency Counsel/  
Director of Learning and Development

Jennifer Shaw, Esq.  
Executive Agency Counsel/  
Director of Compliance

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 676. 2724 fax

BY MAIL AND EMAIL

September 12, 2019

Cyrus R. Vance, Jr.  
District Attorney  
Office of the New York County District Attorney  
1 Hogan Place  
New York, NY 10013

Re: Resolution #2019AP/233-901-(2019)C31  
DETERMINATION: Compliance

Dear District Attorney Vance:

On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEPC's Board of Commissioners has approved the attached Determination.

Thank you and principal EEO Professional, Nitin Savur, Esq., for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,

A handwritten signature in black ink, appearing to read "Elaine S. Reiss". The signature is fluid and cursive, with a large, stylized "R" at the end.

Elaine S. Reiss, Esq.  
Commissioner

C: Principal EEO Professional, Nitin Savur, Esq., Office of the New York County District Attorney





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

*This*

# *Determination of Compliance*

*is hereby issued to*

*Office of the New York County District Attorney*

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*for successful implementation of 1 of 1 required corrective action(s),  
thereby achieving compliance with the Equal Employment Practices Commission's  
Sexual Harassment Prevention and Response Practices  
from January 1, 2017 to this date.*

On this 12<sup>th</sup> day of September in the year 2019,

A handwritten signature in black ink, reading "Elaine S. Reiss", is written over a horizontal line.

Elaine S. Reiss, Esq., Commissioner

A handwritten signature in black ink, reading "Charise L. Terry", is written over a horizontal line.

Charise L. Terry, Executive Director

*In care of District Attorney Cyrus R. Vance, Jr.  
and Principal EEO Professional, Nitin Savur, Esq.*